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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO - EASTERN DIVISION
GREGORY W. BARAN, M.D.,
Plaintiff,
-vs- JUDGE O'MALLEY
CASE NO. 1:04CV1251
CONFIDENTIAL
MEDICAL DEVICE
TECHNOLOGIES, INC.,
Defendant.

- - - -
Videotaped deposition of
MAJID RASHIDI, Ph.D., P.E., taken as if upon
cross-examination before Dawn M. Fade, a
Registered Merit Reporter and Notary Public
within and for the State of Ohio, at the offices
of Benesch, Friedlander, Coplan & Aronoff, LLP,
2300 BP Tower, 200 Public Square, Cleveland,
Ohio, at 9:11 a.m. on Wednesday, November 19,
2008, pursuant to notice and/or stipulations of
counsel, on behalf of the Defendant in this
cause.

- - - -
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1 seeing any product information that you received
2 that's in a written form?

3 A. Probably in all this stack of material probably
4 there is something on that. But as I said, when
5 I looked at this I'm assuming that this must be a
6 single use item.

7 Q. Okay. Do you know, when you say single use, do
8 you know whether the device that's BioPince
9 Exhibit 8 could be used in multiple tissue, for
10 multiple tissue samples in the same patient?

11 A. It could be, it could be on the same patient, but
12 you cannot transfer from patient to patient.

13 Q. Okay.

14 A. That's what I mean by single procedure use. So
15 you can use it ten times on the same patient,
16 different parts of the tumor or whatever, but
17 after that you have to dispose of it.

18 Q. Did you speak with anybody about whether the
19 BioPince could be used multiple times on the same
20 patient?

21 A. I can assume, again, because of my prior
22 experience with catheters, you can insert the
23 catheter to one chamber of the heart and get your
24 data, take it out, go to another vascular line
25 into another chamber of the heart, so, therefore,

1 A. Okay.

2 Q. But would you agree with me that the crank arm,
3 what you refer to as a crank arm is the device
4 that's used by the physician to charge the
5 device?

6 A. I disagree with you.

7 MS. THOMPSON: Then I object to
8 the form of the question.

9 A. I disagree with you. Crank arm 28 is one member
10 of a mechanism which I'm calling it a slider
11 crank which collectively together, these three
12 members, charge the spring. If you don't have
13 the connecting rod 30, if you don't have the
14 slider 35, no matter how many times you move this
15 up and down there is no elastic energy charging
16 the spring. These three pieces work like a
17 family, they work together to achieve the final
18 objective of compressing the spring in the most
19 comfortable way for the physician.

20 Q. Could you charge the BioPince device without the
21 crank arm?

22 MS. THOMPSON: Objection to form.

23 A. As I said, this, this BioPince system has a
24 charging mechanism.

25 Q. Uh-huh.

1 A. As it is intended for, no, the answer is no.

2 Q. Okay. Your testimony is that you need the crank
3 arm, the connecting rod and the slider link to
4 charge the device?

5 A. That is a very true statement.

6 Q. Okay. Would you agree with me that the crank arm
7 is manually operable?

8 A. It is manually operable.

9 Q. Okay. You say that it's a member of a mechanism,
10 right?

11 A. Correct.

12 Q. And you say the mechanism, mechanism has to have
13 at least three members in your report, is that
14 right?

15 A. That's correct.

16 Q. One of which is fixed and defined as the ground,
17 right?

18 A. Correct.

19 Q. So the crank arm is a member of the crank arm
20 mechanism?

21 A. That's correct.

22 Q. And would you agree with me that it is a member,
23 the crank arm itself is a member of that
24 mechanism?

25 A. Absolutely.

1 A. Okay. I'm not sure that it is not already
2 charged. So you raise the handle to go up, you
3 hear this click which means that that slider
4 piece goes and grabs on this little protrusion.

5 Q. Uh-huh.

6 A. And then you press it so the slider crank is in
7 action, you lock it in place, that locking fixer
8 is holding it together so you charged it.

9 Q. So it's charged right now, is there any indicator
10 on the device that tells you it's charged?

11 A. No.

12 Q. Okay. How would one know whether it's charged or
13 not?

14 A. As I said, I didn't study that aspect of this so
15 I don't know.

16 Q. Okay. You have to rely on somebody else to tell
17 you when it's charged?

18 A. Actually physicians are going to use this and
19 this is in their hands so they should know how to
20 use this.

21 Q. And can you tell at all by virtue of the
22 orientation of what you refer to as the crank
23 arm?

24 A. Orientation of the crank arm to conclude what?

25 Q. Whether it's charged or not.

1 on the handle when it's charged?

2 A. Much more difficult than when it is not. And you
3 can do that yourself.

4 Q. Right. Well, does it depend on your, I notice
5 that you're positioning your hand on the very end
6 of the crank arm.

7 A. Yeah.

8 Q. Does it get easier if you move it along?

9 A. No.

10 Q. How about the middle?

11 A. Here?

12 Q. Yeah. Isn't that a lot easier?

13 A. In both cases it is much more than when it is --
14 let me see if this is -- okay.

15 Whether I grab here or here it is much easier
16 when there is no potential energy.

17 Q. Uh-huh.

18 A. Whether I grab in the middle or here and the two
19 are totally different. So there is nothing in
20 here that encourages me to discharge it. And as
21 a matter of fact, if I discharge it in this
22 fashion, then there are two possibilities,
23 whether I'm being very careful to make sure
24 there's no violent action there and if I do that
25 I should constantly keep working against the

1 spring so that the needle goes very slowly, it
2 doesn't do any biopsy.

3 Q. Uh-huh.

4 A. But if I want to really push it in then it
5 becomes a violent action and there is no way I
6 can control that.

7 Q. Right. Well, you're speaking about your own
8 handling of the device, right?

9 A. What do you mean by that?

10 Q. Well, you were talking about the difficulty that
11 you were having personally discharging the device
12 by lifting the handle, right?

13 A. Actually we can quantitatively measure that,
14 verify that. I haven't done it, but I can do it
15 and I reserve the right to do that. I'm sure
16 that it is difficult, much more difficult to
17 discharge this in this fashion than just pressing
18 the button as intended.

19 Q. Uh-huh.

20 A. And as I said, any latch you can undo by brute
21 force.

22 Q. Now, how do you -- you say -- well, I want to be
23 clear about this. You've not talked to any
24 clinicians, right, about the BioPince device?

25 A. No.

1 trigger.

2 A. Uh-huh.

3 Q. Okay. And that has the effect of obtaining a
4 sample, right?

5 A. Okay.

6 Q. And 8 says, "Remove the device from the patient.
7 Lifting the cocking lever and pushing it down
8 will automatically expel the specimen."

9 A. Okay.

10 Q. "The instrument is now ready for another specimen
11 retrieval."

12 A. Okay.

13 Q. Okay. Well, my question is does, do these
14 instructions in your view address the situation
15 where a physician does not want to take another
16 specimen?

17 A. Okay. So --

18 Q. And yet doesn't want a loaded device sitting on a
19 table.

20 A. Okay. Okay. So we go with this hypothetical
21 situation?

22 Q. Yeah.

23 A. Then what?

24 Q. Well, my question is do those instructions deal
25 with that situation?

1 MS. THOMPSON: Object to the form
2 of the question and the incomplete
3 hypothetical.

4 A. Yeah. I mean, as I said, based on your own
5 statement, that a charged device could be more
6 dangerous than uncharged and if he's not going to
7 take another sample what is going to happen to
8 the needle, it has to go to the biohazard
9 material so you discharge it and throw it in
10 there. I mean, this is common sense, isn't it?

11 If I'm not taking any other sample, I cannot
12 use it again on another patient so it has to go
13 into the garbage can, so discharge it and throw
14 it in the garbage can however is the safest which
15 is pushing the red button.

16 Q. But it doesn't say anywhere that the physician
17 shouldn't lift up on the handle to discharge the
18 device, does it?

19 MS. THOMPSON: Objection.
20 Argumentative.

21 A. It doesn't say many other things either.

22 Q. Well, it doesn't say it, does it?

23 A. It doesn't say many other things either. It
24 doesn't say that the physician should not drive
25 fast home.